



Senate

General Assembly

January Session, 2001

File No. 14

Senate Bill No. 1056

Senate, February 28, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING MANDATORY FACT-FINDING CONFERENCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 46a-83 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) Within twenty days after the filing of any discriminatory practice
4 complaint, or an amendment adding an additional respondent, the
5 commission shall cause the complaint to be served upon the
6 respondent together with a notice (1) identifying the alleged
7 discriminatory practice, and (2) advising of the procedural rights and
8 obligations of a respondent under this chapter. The respondent shall
9 file a written answer to the complaint under oath with the commission
10 within thirty days of receipt of the complaint, provided a respondent
11 may request, and the commission may grant, for good cause shown,
12 one extension of time of fifteen days within which to file an answer to
13 a complaint. The answer to any complaint alleging a violation of

14 section 46a-64c or 46a-81e shall be filed within ten days of receipt.

15 (b) Within ninety days of the filing of the respondent's answer to the
16 complaint, the executive director or the executive director's designee
17 shall review the file. The review shall include the complaint, the
18 respondent's answer and the responses to the commission's requests
19 for information, if any, and the complainant's comments, if any, to the
20 respondent's answer and information responses. If the executive
21 director or the executive director's designee determines that the
22 complaint fails to state a claim for relief or is frivolous on its face, that
23 the respondent is exempt from the provisions of this chapter or that
24 there is no reasonable possibility that investigating the complaint will
25 result in a finding of reasonable cause, the complaint shall be
26 dismissed. This subsection shall not apply to any complaint alleging a
27 violation of section 46a-64c or 46a-81e. The executive director shall
28 report the results of the executive director's determinations pursuant
29 to this subsection to the commission quarterly during each year.

30 (c) The executive director of the commission or his designee shall
31 determine the most appropriate method for processing any complaint
32 pending after review in accordance with subsection (b) of this section.
33 The commission may conduct mandatory mediation sessions,
34 expedited or extended mandatory fact-finding conferences or complete
35 investigations or any combination thereof during the investigatory
36 process for the purpose of finding facts, promoting the voluntary
37 resolution of complaints or determining if there is reasonable cause for
38 believing that a discriminatory practice has been or is being committed
39 as alleged in the complaint. As used in this section and section 46a-84,
40 reasonable cause means a bona fide belief that the material issues of
41 fact are such that a person of ordinary caution, prudence and judgment
42 could believe the facts alleged in the complaint. A complaint may be
43 dismissed if a complainant, after notice and without good cause, fails
44 to attend a mandatory mediation session or mandatory fact-finding
45 conference. A mediator may recommend, but not order, a resolution of

46 the complaint. A complaint may be dismissed if the respondent has
47 eliminated the discriminatory practice complained of, taken steps to
48 prevent a like occurrence in the future and offered full relief to the
49 complainant, even though the complainant has refused such relief.

50 (d) Before issuing a finding of reasonable cause or no reasonable
51 cause, the investigator shall afford each party and his representative an
52 opportunity to provide written or oral comments on all evidence in the
53 commission's file, except as otherwise provided by federal law or any
54 other provision of the general statutes. The investigator shall consider
55 such comments in making his determination. The investigator shall
56 make a finding of reasonable cause or no reasonable cause in writing
57 and shall list the factual findings on which it is based not later than one
58 hundred ninety days from the date of the determination based on the
59 review of the complaint, conducted pursuant to subsection (b) of this
60 section, except that for good cause shown, the executive director or his
61 designee may grant no more than two extensions of the investigation
62 of three months each. If the investigator makes a determination that
63 there is reasonable cause to believe that a violation of section 46a-64c
64 has occurred, the complainant and the respondent shall have twenty
65 days from receipt of notice of the reasonable cause finding to elect a
66 civil action in lieu of an administrative hearing pursuant to section 46a-
67 84. If either the complainant or the respondent requests a civil action,
68 the commission, through the Attorney General or the commission
69 counsel, shall commence an action pursuant to subsection (b) of section
70 46a-89 within forty-five days of receipt of the complainant's or the
71 respondent's notice of election of a civil action.

72 (e) If the investigator issues a finding of no reasonable cause or if the
73 complaint is dismissed (1) for failure to state a claim for relief, (2)
74 because it is frivolous on its face, (3) because the respondent is exempt
75 from the provisions of this chapter, or (4) because there is no
76 reasonable possibility that investigating the complaint will result in a
77 finding of reasonable cause or if the complaint is dismissed pursuant

78 to subsection (c) of this section, the complainant may request
79 reconsideration of such finding or dismissal with the executive director
80 of the commission, or the executive director's designee, not later than
81 fifteen days from the issuance of such finding or dismissal. The
82 executive director of the commission, or the executive director's
83 designee, shall reconsider or reject within ninety days of the issuance
84 of such finding or dismissal. The executive director of the commission,
85 or the executive director's designee, shall conduct such additional
86 proceedings as may be necessary to render a decision on the request
87 for reconsideration.

88 (f) Upon a determination that there is reasonable cause to believe
89 that a discriminatory practice has been or is being committed as
90 alleged in the complaint, an investigator shall attempt to eliminate the
91 practice complained of by conference, conciliation and persuasion
92 within fifty days of a finding of reasonable cause. The refusal to accept
93 a settlement shall not be grounds for dismissal of any complaint.

94 (g) No commissioner or employee of the commission may disclose,
95 except to the parties or their representatives, what has occurred in the
96 course of such endeavors provided the commission may publish the
97 facts in the case and any complaint which has been dismissed and the
98 terms of conciliation when a complaint has been adjusted. Each party
99 and his representative shall have the right to inspect and copy
100 documents, statements of witnesses and other evidence pertaining to
101 his complaint, except as otherwise provided by federal law or any
102 other provision of the general statutes.

103 (h) In the investigation of any complaint filed pursuant to this
104 chapter, the commission may issue subpoenas requiring the
105 production of records and other documents relating to the complaint
106 under investigation.

107 (i) The executive director of the commission or his designee may
108 enter an order of default against a respondent (1) who, after notice,

109 fails to answer a complaint in accordance with subsection (a) of this
110 section or within such extension of time as may have been granted or
111 (2) who fails to answer interrogatories issued pursuant to subdivision
112 (11) of section 46a-54 or fails to respond to a subpoena issued pursuant
113 to subsection (h) of this section and subdivision (9) of section 46a-54,
114 provided the executive director or his designee shall consider any
115 timely filed objection, or (3) who, after notice and without good cause,
116 fails to attend a mandatory mediation session or mandatory fact-
117 finding conference. Upon entry of an order of default, the executive
118 director or his designee shall appoint a presiding officer to enter, after
119 notice and hearing, an order eliminating the discriminatory practice
120 complained of and making the complainant whole. The commission or
121 the complainant may petition the Superior Court for enforcement of
122 any order for relief pursuant to section 46a-95.

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Commission on Human Rights and Opportunities

Municipal Impact: None

Explanation**State Impact:**

The bill makes it mandatory that the complainant and respondent appear at a fact-finding conference when the commission uses this alternative during the investigation of a discriminatory practice complaint. The bill gives the Commission on Human Rights and Opportunities the authority to dismiss a complaint or default a respondent who fails to attend the mandatory conference. A Hearing Officer will conduct a hearing to determine the amount of damages against the respondent upon the issuance of a default order.

The Commission on Human Rights and Opportunities may incur a decrease in workload if cases are dismissed when the complainant does not show up at the conference. There may be a workload increase for the commission if the respondent does not appear at a conference and the hearing to determine damages is necessary. More staff time on the part of Hearing Examiners may be required. There were 810 fact - finding conferences in calendar year 2000. Of these fact - finding

conferences, 14 complainants and 10 respondents did not appear.

The agency projects that they will receive 2,125 complaints during fiscal year 2001. It also projects that 2031 complaints will be filed in fiscal year 2002 and 1,939 in 2003.

OLR Bill Analysis

SB 1056

AN ACT CONCERNING MANDATORY FACT-FINDING CONFERENCES.**SUMMARY:**

This bill makes mandatory the fact-finding conferences the Commission on Human Rights and Opportunities Commission (CHRO) may already conduct when investigating discrimination complaints.

It authorizes CHRO's executive director to issue a default order against a person accused of discrimination who, after notice and without good cause, fails to attend a mandatory fact-finding conference. By law, after the executive director issues a default order, the case goes to a hearing officer who, after notice and a hearing, determines damages.

The bill authorizes CHRO to dismiss a complaint if the complainant, after notice and without good cause, fails to attend such a conference. By law, complainants have 15 days to request a dismissal reconsideration. The executive director must reconsider or reject the request within 90 days of the dismissal.

EFFECTIVE DATE: October 1, 2001

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 35 Nay 0